

CHAPTER 806

Cable Television; Conflicts of Interest

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CROSS REFERENCES

General powers of counties - see Code of Va. ' 15.2-1200
 Adoption of ordinances - see Code of Va. ' 15.2-1427
 Cable television; franchises - see B.R. & T. Ch. 804

806.01 PURPOSE.

The purpose of this chapter is to prescribe procedures and regulations intended to ensure fairness and an equal opportunity to all prospective bidders in the cable television franchising process, to minimize and avoid competitive abuse, extreme marketing pressure on public officials and conflict of interest on the part of residents and officials, and to protect the interests of the residents of the County, who are potential subscribers or customers of the franchise. (Ord. 81-14. Passed 12-7-81.)

806.02 DEFINITIONS.

As used in this chapter, except where a different meaning is clearly indicated:

- (a) Applicant or Person. "Applicant" or "person" means any individual, partnership, trust, estate, business trust, association, corporation or other entity, or his, her or its affiliate, or any employee or agent thereof, being a bidder or prospective bidder for a cable television franchise or having a financial relationship therein, through employment, stock interest or otherwise.
- (b) Application Expenses. "Application expenses" means expenses paid or incurred by any applicant or any parent, subsidiary or affiliated company, joint venture, partner, agent or employee of such applicant, who applies for a cable television franchise. Such expenses include:
 - (1) Expenses paid for engineering or other consultant services utilized in preparing the application filed with the County for a cable television franchise;
 - (2) Legal expenses paid or incurred for services utilized in preparing the application filed with the County for a cable television franchise;

- (3) Readily identifiable salaries (or portions thereof, or compensation in any form, of employees of the applicant whose services have been used to influence legislation if such salary attributable to influencing legislation exceeds one thousand dollars (\$1,000);
- (4) Assignment or issuance, or the promise of assignment or issuance, to any person, of any ownership interest in the applicant, and the consideration, if any, paid or promised therefor, other than securities registered under the Securities Act of 1933, and purchased at fair market value on a recognized securities exchange. Any person who acquires an ownership interest without payment of good and valuable consideration therefor, or at less than fair market value, shall be specifically identified.
- (5) Payments or promises of payment of money or any other thing of value, to any person, used in any way to further the application. The disclosure required by this paragraph shall not include those expenses disclosed pursuant to paragraphs (b)(1) through (b)(4) hereof.
- (c) Compensation. "Compensation" means a salary, gift, payment, benefit, subscription, loan, advance, reimbursement or deposit of money or anything of value, or a contract, promise or agreement, whether or not legally enforceable, to compensate.
- (d) County Employee or Employee. "County employee" or "employee" means those employees who, in the course of their employment, are involved, directly or indirectly, with the process of receiving or reviewing proposals, awarding a CATV franchise, overseeing, regulating or investigating a franchisee, or communicating with any applicant.
- (e) Engage. "Engage" means any arrangement whereby a person is employed or retained for compensation to act in some part to influence cable television franchise legislation.
- (f) Expenditure. "Expenditure" means payment, distribution, loan, advance, deposit, reimbursement or gift of money, real estate or anything of value, or a contract, promise or agreement, whether or not legally enforceable, to make an expenditure, but only if made after the effective date of this chapter (Ordinance 81-14, passed December 7, 1981).
- (g) Influence Legislation. "Influence legislation" means to promote, advocate or oppose the passage or defeat of cable television franchise legislation by direct communication with any member of the Board of Supervisors, the Cable TV Citizens Advisory Committee or any other official or employee of the County, or with any consultant hired by the County with regard to the cable television franchising process.
- (h) Legislation. "Legislation" means ordinances, resolutions, amendments, nominations, agreements and other matters pending before the Board of Supervisors pertaining to the granting of 2 specific cable television franchise to a specific applicant. (Ord. 81-14. Passed 12-7-81.)

806.03 PERSONS SEEKING TO INFLUENCE LEGISLATION; REGISTRATION REQUIRED.

(a) Any person seeking to influence cable television franchise legislation shall file with the office of the County Administrator a registration statement showing all of the following:

- (1) The person's name, business address and occupation;
- (2) The amount and method of compensation for such person, if known at the time, and the source of such compensation;
- (3) The name and business address of the person who is compensating such person to influence the legislation or a description of the financial relationship involved; and
- (4) A brief description of the specific legislation for which such person is being compensated to influence.

(b) When any information required by this section is changed, the registration statement filed pursuant to this section shall be amended, within thirty days, to reflect such change.

(c) No registration statement shall be valid beyond December 31 of each even-numbered year.

(d) Nothing herein shall be construed to prohibit any comment, documentary submission or testimony given by any resident or applicant at any duly authorized public hearing or public meeting scheduled by the County.
(Ord. 81-14. Passed 12-7-81.)

806.04 STATEMENTS OF EXPENDITURES.

(a) Each person who seeks to influence cable television franchise legislation shall file in the office of the County Administrator a statement of expenditures. The statement shall show the amount of each expenditure made by the person filing the statement to influence such legislation, the specific purpose of that expenditure and the total amount of all such expenditures. The person shall also state the name of the public body, public officer or employee to whom or on whose behalf the expenditure was made, the total amount of the expenditure and the exact legislation sought to be influenced, by ordinance or resolution number. The statements shall be filed on or before the fifth day of each month. Each statement shall cover expenditures made during the preceding month.

(b) All persons who seek to influence cable television franchise legislation shall retain receipts or maintain records for all expenditures that are required to be reported pursuant to this section. These receipts or records shall be maintained for a period ending on December 31 of the second calendar year after the year in which the expenditure was made, and during such time they shall be made available upon request to the office of the Administrator for investigation of compliance with this chapter.

(c) All persons who seek to influence cable television franchise legislation shall report any campaign contributions which have been made to members of or candidates for the Board

of Supervisors or their campaign treasurer. Such report shall be filed at the time of the contribution, or as soon thereafter as possible.
(Ord. 81-14. Passed 12-7-81.)

806.05 COMMUNICATIONS WITH COUNTY OFFICIALS, COUNTY STAFF AND CONSULTANTS.

(a) All requests for information, meetings or discussions between any applicant and any County official, employee or consultant must be addressed in writing to the office of the County Attorney. Such requests shall be a matter of public record and shall not be kept confidential.

(b) Direct contact or discussion, outside of any public hearing, public meeting or pre-proposal or post-proposal conference which is part of the bidding process and which is open to the public, between any applicant or prospective applicant and any consultant retained by the County for cable television or any member of the Cable TV Citizens Advisory Committee or Board of Supervisors, for the purpose of influencing or attempting to influence legislation, is prohibited. All questions or requests for information required of the consultant or officials shall be made in writing, addressed to the office of the County Attorney, and any response to such a question or response shall be made by such office.

Cable TV Citizen Advisory Committee members may contact any applicant or prospective applicant with requests to provide general information regarding CATV matters. A written log or record of each such contact, the date thereof and the content of the discussion shall be made by Committee members and shall be filed with the office of the County Administrator.

(c) Legal counsel for any prospective franchisee shall communicate with the office of the County Attorney with regard to any matter arising out of the franchising process.
(Ord. 81-14. Passed 12-7-81.)

806.06 FINANCIAL EXPENSE REPORTS.

(a) Every person submitting an application for a cable television franchise shall simultaneously, with the submission of the application, provide the County with a complete statement of application expenses incurred up to the thirtieth day prior to the filing of the application.

(b) Every person submitting an application for a cable television franchise shall, on or before the thirtieth day following the filing of the application, provide the County with a disclosure of application expenses incurred by the applicant for the period beginning on the thirtieth day prior to the filing of the application and ending at the close of business on the day of the filing of the application.

(c) The disclosures described in the preceding subsections shall be in writing. Each item of expense shall indicate the payor, payee, amount of payment and date of payment. A payment of money need not be itemized if the payments to the payee do not exceed one hundred dollars (\$100.00) during any reporting period.
(Ord. 81-14. Passed 12-7-81.)

806.07 DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST.

(a) All County employees, officials, hired consultants and members of the Cable TV Citizens Advisory Committee shall disclose, in writing, filed with the office of the County Administrator, the following:

- (1) Any financial interest which such official, employee or Advisory Committee member, or his or her spouse or immediate family member residing in the same household, has, with any applicant. For purposes of this section, financial interest means any personal and pecuniary interest, including ownership interest, in any applicant or affiliate thereof, or the receipt of income or anything of value from such applicant or its affiliates. Service on the board of directors of any financial institution or other company doing business with an applicant shall not be deemed to be a financial interest requiring disclosure for purposes of this chapter.
- (2) Any potential conflict of interest arising from professional or personal affiliation with such an applicant or prospective applicant, by such official, employee or Advisory Committee member;
- (3) Any money, property, service or other thing of value, or a promise thereof, given by an applicant to any employee, official or Advisory Committee member; and
- (4) Any campaign contribution made by any applicant to benefit the political campaign of any County official, employee or Advisory Committee member.

(b) Any consultant who desires to be retained or is retained by the County for purposes associated with the cable television franchising process shall disclose, in writing, filed with the office of the County Administrator, the following information at the time of the submission of his or her bid, updated in a timely manner if new or additional information becomes available:

- (1) Any corporate, financial, professional or personal affiliation, either present or within the last ten years, with any applicant, or, if a qualified bidders list is formulated, with those applicants currently on the qualified bidders list;
- (2) Any financial, professional or personal relationship with any County official, employee or Advisory Committee member;
- (3) All other governmental jurisdictions, firms or other parties for whom the consultant has performed, or is currently performing, services relating to cable television; and
- (4) A complete listing of all firms previously recommended by such consultant for cable television franchises in other governmental jurisdictions.
(Ord. 81-14. Passed 12-7-81.)

806.08 DUTIES OF THE OFFICE OF THE COUNTY ADMINISTRATOR.

The office of the County Administrator shall keep on file all public documents and reports required by this chapter. Such documents and reports are public records and shall be open to public inspection.

(Ord. 81-14. Passed 12-7-81.)

806.09 VIOLATIONS.

The Board of Supervisors shall eliminate from consideration any applicant for the award of a cable television franchise in the County which has willfully violated any of the provisions of this chapter by the action of any of its members, agents or representatives. Willful violation of any of the provisions of this chapter may be grounds for removal from office of any County official or Cable TV Citizens Advisory Committee member, or discharge of any County employee.
(Ord. 81-14. Passed 12-7-81.)